

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARBARA YVONNE HAYES,

Plaintiff,

v.

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT,
NEW YORK STATE EDUCATION DEPARTMENT and
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES OFFICE FOR CIVIL
RIGHTS REGION II,

Defendants.

ORDER

06-CV-528S

1. Ms. Hayes has made another Motion for Reconsideration (Docket No. 62) of this Court's Order denying a previous Motion for Reconsideration (Docket No. 60). In this new motion, Ms. Hayes has not pointed to a change in controlling law or new evidence since the entry of the previous Order, nor has she established a clear error or manifest injustice caused thereby. The current Motion seeks the same relief, for essentially the same reasons, as the previous motion and is denied for the same reasons stated in the previous Order denying same. See North River Insur. Co. v. Philadelphia Reinsurance Corp., 63 F.3d 160, 165 (2d Cir.1995), *cert. denied*, 516 U.S. 1184 (1996) ("A court should be 'loath' to revisit an earlier decision 'in the absence of extraordinary circumstances such as where the initial decision was 'clearly erroneous and would work a manifest injustice' ") (*quoting Christianson v. Colt Ind. Operating Corp.*, 486 U.S. 800, 817 (1988)).

2. Ms. Hayes has also made a Motion to Stay (Docket No. 64) these proceedings until the appeal she filed, that purports to appeal this Court's Order (Docket No. 60) denying the first motion for reconsideration is perfected in, and decided by, the Second Circuit Court

of Appeals. The motion is denied. No final Order has been entered herein and Ms. Hayes' Notice of Appeal is premature. A premature Notice of Appeal does not divest this Court of jurisdiction. See United States v. Rodgers, 101 F.3d 247, 251-52 (2d Cir. 1996); Burger King Corp. v. Horn & Hardart Co., 893 F.2d 525, 527 (2d Cir. 1990); see a/so Allan Ides: The Authority of a Federal District Court to Proceed After a Notice of Appeal Has Been Filed, 143 F.R.D. 307, 310- 11 (1992) (notice of appeal that is plainly defective does not divest district court of jurisdiction).

3. Ms. Hayes' Motion to Amend/Correct the attorney sheet (Docket No. 65) is also denied. The main Docket Sheet accurately reflects the parties in this case. How the attorneys are described or listed in the attorney section of the Docket is not germane to the substantive issues in this case.

IT HEREBY IS ORDERED, that the Motion for Reconsideration (Docket No. 62) is **DENIED**.

FURTHER, that the Motion to Stay (Docket No. 64) is **DENIED**.

FURTHER, that the Motion to Amend/Correct the attorney sheet (Docket No. 65) is **DENIED**.

SO ORDERED.

Dated: March 24, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge